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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ADAM JAY STONE,) Case No. 1:21-cv-01461-SAB (PC)
12 Plaintiff,)
13 v.) ORDER DENYING PLAINTIFF'S MOTION FOR
14 C. PFIEFFER,) APPOINTMENT OF COUNSEL
15 Defendant.) (ECF No. 8)
16)

17 Plaintiff Adam Jay Stone is proceeding *pro se* and *in forma pauperis* in this civil rights action
18 pursuant to 42 U.S.C. § 1983.

19 Currently before the Court is Plaintiff's motion for appointment of counsel, filed October 18,
20 2021.

21 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
22 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent
23 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern
24 District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the Court
25 may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at
26 1525.

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1 Without a reasonable method of securing and compensating counsel, the Court will seek
2 volunteer counsel only in the most serious and exceptional cases. In determining whether
3 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the
4 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
5 legal issues involved.” Id. (internal quotation marks and citations omitted).

6 In the present case, the Court does not find the required exceptional circumstances. Even if it
7 assumed that Plaintiff is not well versed in the law and that he has made serious allegations which, if
8 proved, would entitle him to relief, his case is not exceptional. The Court is faced with similar cases
9 almost daily. While the Court recognizes that Plaintiff is at a disadvantage due to his pro se status and
10 his incarceration, the test is not whether Plaintiff would benefit from the appointment of counsel. See
11 Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986) (“Most actions require development of
12 further facts during litigation and a pro se litigant will seldom be in a position to investigate easily the
13 facts necessary to support the case.”) Circumstances common to most prisoners, such as lack of legal
14 education and limited law library access, do not establish exceptional circumstances that would
15 warrant a request for voluntary assistance of counsel. The test is whether exception circumstances
16 exist and here, they do not. In the present case, the Court has yet to screen Plaintiff’s complaint and
17 based on a cursory review of the complaint, the Court does not find the required exceptional
18 circumstances. Accordingly, Plaintiff’s motion for the appointment of counsel is denied, without
19 prejudice.

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21 IT IS SO ORDERED.

22 Dated: October 20, 2021


UNITED STATES MAGISTRATE JUDGE